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REMARKS

Claims 1-13 are presently pending. Claims 3, 4, 7, 11 and 13 have been withdrawn as being directed to non-elected subject matter. Claims 1, 5 and 9 have been amended.

Applicants respectfully request reconsideration of the application in view of the foregoing amendments and the remarks appearing below, which Applicants believe place the application in condition for allowance. This is so because, as discussed below in more detail, Applicants have amended the claims to include the actual structure corresponding to the term "up-locking," which the Office Action contends can be reasonably construed to include not only the structure Applicants assert, but also other structures that Applicants do not intend to cover by the claims.

Applicants have made these amendments in part based upon the statement on page 4, line 15, of the current Office Action that "Applicant could define the invention in terms of the actual structure." Indeed, this is what Applicants have done. Since the references applied in the present rejections do not disclose or reasonably suggest this actual structure, Applicants believe that the foregoing amendments do not raise any new issues of patentability, but simply place the claims in condition for allowance. Details regarding the amendments and the obviousness rejection are discussed below.

The Present Amendments and the Term "Up-Locking"

In responses to prior Office Actions, Applicants have asserted that the terms "up-locking" and "down-locking" have well-accepted meanings in the field. More particularly, Applicants have argued that "up-locking" relative to a fly-fishing rod means that the moveable locking component, e.g., threaded nut, of the reel lock is located at the butt end of the rod and that this component is moved up the rod, i.e., away from the butt end and toward the tip of the rod, during the process of fully locking a reel to the reel seat body.

Without conceding that the term "up-locking" has this exclusive meaning to those of ordinary skill in the art, Applicants have amended independent claims 1, 5 and 9 to specifically require that the moveable reel lock component be at the butt end of the rod and that the fixed reel lock component, e.g., fixed ring, be located at the opposite end of the reel seat body, i.e.,

adjacent the handle region of the rod. This is clearly shown in all of the figures of the current application.

As discussed below in connection with the obviousness-type rejection, none of the applied references, i.e., the Sugamata, Pontis and Yamamoto et al. patent documents, nor any combination thereof, discloses or even suggests this structure, for at least the reason that each of the fishing rods of these documents has the moveable reel lock component located on the end of the reel seat body opposite the butt end of the rod. This is completely opposite of having the moveable reel lock component located at the butt end as now required by all of the present claims as amended.

### **Rejection Under 35 U.S.C. § 103**

Claims 1-13 stand rejected under 35 U.S.C. § 103 as being obvious in view of Japan publication number 10075691 to Sugamata, U.S. Patent No. Des. 131,494 to Pontis and U.S. Patent No. 5,048,223 to Yamamoto et al. The Office Action states that Sugamata discloses a fishing rod having all of the limitations of these claims except a semi-cylindrical cowl forming a continuation of a rod handle and a sleeve overlapping a reel seat body. The Office Action then asserts that Pontis and Yamamoto et al. disclose these features and further asserts that it would have been obvious to a person having ordinary skill in the art at the time of the invention to provide Sugamata's rod with the cowl and sleeve disclosed by Pontis and Yamamoto et al. Applicants respectfully disagree.

Sugamata discloses a fishing rod (1), i.e., a fishing rod having a grip (7) and a reel (R) that is locked in place on a reel seat (generally, 9) using a nut (not labeled) that engages threads (not labeled) adjacent the grip, which is located distal from the butt end of the rod. To secure the reel, the nut is turned so that it moves relative to the reel seat in a direction toward the butt end of the rod (i.e., toward the left in the figure from the Sugamata publication). This nut forms part of the reel lock.

Pontis discloses an ergonomic grip for a fishing rod. The grip includes contours that conformally receive various portions of a user's hand. A reel seat is located "up" the rod from the grip, i.e., away from the butt end of the rod and toward the tip. The Pontis fishing rod has a knob (unlabeled) located at the upper end of the reel seat that is turned so as to move a lock (not

labeled) downward relative to the rod, i.e., toward the butt end of the rod. The grip includes a bulbous portion that appears to be provided to accommodate the thumb of a user during use.

Yamamoto et al. disclose a fishing rod having a handle that consists of a first grip member (13) located proximate the butt end of the rod and a second grip member (14) located up the rod from the first grip member. Regarding the reel lock of the Yamamoto et al. fishing rod, note the threads (12c) in FIG. 2. The reel seat (reel mounting member 12) is located up the rod from the first grip member, i.e., toward the tip of the rod, and down the rod from the second grip member, i.e., toward butt end of the rod. The first grip member has a portion (13') that extends over the reel seat opposite the reel and appears to be provided to accommodate the upper region (relative to the up direction of the rod) of a user's palm during use.

In contrast to each of the Sugamata, Pontis and Yamamoto et al. fishing rods, and any combination thereof, claims 1-13 as presently amended are directed to a cowl, fishing rod handle having a cowl and a cowl attachment each particularly configured for fishing rod having a moveable reel lock component located proximate the butt end of the rod, wherein the cowl comprises a semi-cylindrical body that extends toward the butt end of the rod. Importantly, not one of the Sugamata, Pontis, and Yamamoto et al. fishing rods has a moveable reel lock component located proximate the butt end of the rod as appears in each of amended independent claims 1, 5, and 9.

Consequently, none of the Sugamata, Pontis, and Yamamoto et al. fishing rods has a semi-cylindrical body that extends past a fixed reel lock component toward the movable reel lock component that is proximate the butt end of the rod, as required by each of amended independent claims 1, 5, and 9. The Sugamata rod does not include any structure that could be considered a cowl, let alone a cowl extending toward the butt end of the rod. The Pontis rod discloses a bulbous portion that extends away from the butt end the rod. The Yamamoto et al. patent discloses a first grip member having a portion that extends away from the butt end of the rod. Therefore, even if one were to use either the Pontis or Yamamoto et al. grip with the Sugamata rod, the extending portions would extend up the rod, not down the rod as is the case with the present invention and claims.

In this connection, Applicants further assert that the Pontis and Yamamoto et al. grips are specifically designed to be grips extending away from the butt end of the rod in order to accommodate portions of a user's hand located distal from the butt. It simply would not make sense to orient them the opposite way so that the extensions extend toward the butt end of the rod since the respective rods are not designed to be gripped in this manner. In contrast, the cowl of the present invention and the amended claims is designed to engage the portion of a user's hand proximate the butt end of the rod in the region of the reel seat body. Consequently, Applicants assert that the only motivation to change the orientations of the Pontis and Yamamoto et al. grips is hindsight motivation based on the present claims. Of course, this sort of motivation is improper in formulating obviousness-type rejections.

In addition, Applicants assert that those skilled in the art would not be motivated to make the combination asserted in the Office Action. This is so because the Sugamata publication is directed to a fishing rod having a telescope attached thereto opposite the reel. Locating the telescope as shown obviates the need and, more generally, eliminates the possibility of having any sort of extension located over the reel seat opposite the reel, as is the case with the cowl of the present claims. This is so because the Sugamata telescope would interfere with the placement of the cowl since the telescope is attached to the rod on the top of the reel seat. Therefore, there is no need for the cowl of the present invention on the Sugamata rod. Consequently, Applicants assert that someone skilled in the art simply would not be motivated to make the present combination. No support has been provided for the assertion that knowledge generally available to one of ordinary skill in the art provides a teaching, suggestion or motivation to combine references. Therefore, the combination is improper.

For at least the foregoing reasons, Applicants assert that independent claim 1, 5, and 9, as amended, and claims 2-4, 6-8, and 10-13 that depend therefrom, are not obvious in view of the asserted combination. Therefore, Applicants respectfully request that the Examiner withdraw the present rejection.

**Additional Comments on Rebuttal to Applicants' Prior Arguments**

Page 5, lines 14-22 of the present Office Action states:

Also, it is not clear why in Sugamata that the telescope obviates the need or eliminates the possibility of having any sort of extension located over the reel seat. Those skilled in the art would see the need for an extension over the reel seat for the purpose of spacing the telescope a certain distance from the butt of the rod to obtain the proper eye relief for the telescope much as in the same way eye relief is used when mounting a scope on a rifle. Also, one skilled in the art might want or desire to move the telescope further away from the rod butt for either the purpose of playing a fish or the purpose of keeping the telescope out of the water in use.

Applicants respectfully object to this statement for a number of reasons. First, and perhaps foremost, is the fact that this statement appears to suggest that the present claims are obvious in view of the Sugamata publication, alone, in view of ordinary skill in the art. This is contrary to the prosecution of application U.S. Application Serial No. 09/837,263, which is the parent of the present application and resulted in U.S. Patent No. 6,629,382 ("the '382 patent"). Generally, the claims of the '382 patent are directed to a fishing rod assembly that includes an up-locking fishing rod assembly that includes the cowl of the present claims. Applicants note that the Examining Corps considered the Sugamata publication during prosecution of the claims of the '382 patent and considered those claims to be patentable over the Sugamata publication.

Second, the assertions about changes to the Sugamata telescope that may be conjured by skilled artisans is unsupported conjecture that appears to be made in hindsight of the present invention. Indeed, the present Office Action provides no evidence whatsoever that the asserted changes would indeed be contemplated by skilled artisans or be practically carried out. Consequently, Applicants assert that the unsupported statements do not comply with the U.S. Patent and Trademark Office's burden of presenting a *prima facie* case of obviousness.

Third, the speculative changes asserted in the foregoing quotation from the current Office Action appear to disregard the teachings of Sugamata. For example, the figure of the Sugamata publication shows the telescope as having a securing structure that is substantially identical to the securing structure of the corresponding reel. Indeed, Sugamata appears to disclose that the fixed and moveable reel lock components essentially double as telescope lock components so that the telescope may be secured to the top of the reel seat body at the same time the reel is secured to the bottom of the reel seat body. Importantly, there does not appear to be any suggestion of the modifications proposed in the foregoing quoted statement made in view of the present claims.

Indeed, to make the suggested changes would require substantial changes to the Sugamata rod assembly that would appear to be contrary to Sugamata's teachings.

In addition, Applicants again assert that the size and location of the telescope place the normal gripping region of the grip forward of the up-rod end of the telescope. Consequently, during any normal-usage gripping of the grip, the user's hand is positioned completely forward of the up-rod end of the telescope. Indeed, this fact appears to have been considered by the designer of the Sugamata grip as evidenced by the configuration of the Sugamata grip. Note particularly that the down-rod end of the grip (i.e., the end of the grip proximate the telescope) is flared outward relative to the midsection of the grip and that the up-rod end of the grip is tapered inward relative to the midsection of the grip. Applicants submit that the flared end is designed as a palm rest or stop that a user can rest the palm of his hand against during normal gripping. The inwardly tapered opposite end is where a user can place his thumb and forefinger during normal gripping. The midsection of the grip is where the bulk of the gripping occurs.

To assert that someone having ordinary skill in the art would be motivated to add a down-rod extension to the Sugamata grip would be to ignore the practicality of the matter. As the designer of the Sugamata grip appears to have recognized, and acknowledged through the configuration of the grip, the telescope is an interference that relegates a user to grip (under normal usage) the grip forward of the up-rod end of the telescope. Indeed, the designer of the Sugamata grip has made the grip ergonomic to do so.

In addition, the Sugamata rod has a threaded locking ring immediately adjacent to the grip. An extension of the grip in the manner asserted in the Office Action would interfere with the proper operation of the locking ring and, thus, would not be attempted by a skilled artisan. Consequently, those skilled in the art would simply not be motivated to make the changes asserted by the Office Action.

Regarding the Office Action's assertion on pages 4 and 5 that the level of hindsight reconstruction used in the present rejection does not exceed the level sanctioned by the courts, Applicants respectfully disagree. While Applicants recognize that any obviousness analysis necessarily requires a certain level of hindsight reconstruction, Applicants assert that in the present case the amount of hindsight used exceeds the sanctioned amount. For example, not one

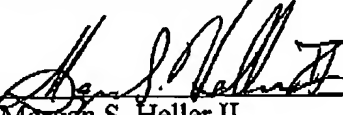
of the references cited in the Office Action or uncovered by the U.S. Patent and Trademark Office disclose or even suggest a cowl of the present invention. Indeed, up-locking fishing rods have existed for many years. However, until the present invention, no one, to Applicants' knowledge, had disclosed or suggested such a cowl. Surely, if the present invention were as obvious as the present Office Action suggests, someone would have implemented such a cowl long ago and the Examining Corps would likely not have deemed the claims of '382 patent to be patentable. However, neither of these things is true.

### Conclusion

In view of the foregoing, Applicants respectfully submit that claims 1-13, as amended, are in condition for allowance. Therefore, prompt issuance of a Notice of Allowance is respectfully solicited. If any issues remain, the Examiner is encouraged to call the undersigned attorney at the number listed below.

Respectfully submitted,

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